

CLERK'S MINUTES

BEFORE DISTRICT JUDGE JAMES O. BROWNING (IN LAS CRUCES)

CASE No.:	No. CR 15-4268 JB	DATES:	February 19-23, 2018
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CASE CAPTION:	<i>USA v. DeLeon, et al.</i>		
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CRD:	J. Standridge	COURT REPORTER:	J. Bean
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MONDAY, FEBRUARY 19, 2018 - HOLIDAY

COURT IN SESSION:	COURT IN RECESS:	TOTAL = 0:00
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TUESDAY, FEBRUARY 20, 2018

COURT IN SESSION:	8:20 a.m. 10:02 a.m. 11:47 a.m. 2:18 p.m. 3:58 p.m.	COURT IN RECESS:	9:50 a.m. = 1:30 11:32 a.m. = 1:30 1:17 p.m. = 1:30 3:47 p.m. = 1:29 5:33 p.m. = 1:35 TOTAL = 7:34
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WEDNESDAY, FEBRUARY 21, 2018

COURT IN SESSION:	8:17 A.M. 10:57 A.M. 11:13 A.M. 11:53 A.M. 1:10 P.M. 2:28 P.M. 3:45 P.M.	COURT IN RECESS:	10:46 A.M. = 2:29 11:09 A.M. = 0:12 11:33 A.M. = 0:20 12:08 P.M. = 0:15 2:17 P.M. = 1:07 3:36 P.M. = 1:08 5:17 P.M. = 1:32 TOTAL = 5:03
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THURSDAY, FEBRUARY 22, 2018

COURT IN SESSION:	8:21 A.M. 9:59 A.M. 11:47 A.M. 2:22 P.M. 4:01 P.M.	COURT IN RECESS:	9:47 A.M. = 1:26 11:32 A.M. = 1:33 1:17 P.M. = 1:30 3:47 P.M. = 1:25 5:36 P.M. = 1:35 TOTAL = 7:29
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FRIDAY, FEBRUARY 23, 2018

COURT IN SESSION:	8:28 A.M. 10:15 A.M. 11:59 A.M. 2:26 P.M. 4:18 P.M.	COURT IN RECESS:	10:03 A.M. = 1:35 11:48 A.M. = 1:33 1:32 P.M. = 1:33 4:02 P.M. = 1:36 5:33 P.M. = 1:15 TOTAL = 7:32
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TYPE OF PROCEEDING: Jury Selection/Jury Trial (see below)

COURT'S RULING/DISPOSITION:

1.

**ORDER CONSISTENT WITH COURT'S RULING TO BE
PREPARED BY:**

ATTORNEYS PRESENT FOR PLAINTIFF(S):

Maria Armijo/Randy Castellano/
Matthew Beck, AUSAs

ATTORNEYS PRESENT FOR DEFENDANT(S):

Richard Jewkes/Amy Jacks (for Deft. Daniel
Sanchez)

Marc Lowry/Theresa Duncan (for Deft. Anthony
Ray Baca)

William Maynard/Carrie Bhalla (for Deft. Carlos
Herrera)

Ryan Villa/Justine Fox-Young (for Deft. Rudy
Perez)

COURT IN SESSION:

8:30 a.m.

COURT:

Calls case. Counsel enter appearances. FBI
Special Case Agent Brian Acee present. Eda
Gordon, Investigator, present with Defendant
Perez. Cynthia Gilbert, paralegal, present for all
defense teams.

MONDAY, FEBRUARY 19, 2018

HOLIDAY

TUESDAY, FEBRUARY 20, 2018

8:20 a.m. Court in session.

8:27 a.m. Ms. Armijo: Calls Dr. Leslie Hamilton to testify.

Clerk: Swears in Dr. Leslie Hamilton.

Ms. Armijo: Direct examination of Dr. Hamilton.

8:36 a.m. Ms. Armijo: Moves to admit Govt Exhibits 143 – 161 and 166, 167.

Defense: No objections.

Court: Admits Govt Exhibits 143 – 161 and 166, 167.

8:49 a.m. Ms Armijo: Passes the witness.

Defense: No questions.

Court: Dr. Hamilton may step down from the witness stand. Witness is excused from the proceedings.

8:49 Mr. Casetellano: Calls Mario Montoya to testify.

Court: Calls and conducts bench conference.

8:57 a.m. Clerk: Swears in Mario Montoya.

Mr. Castellano: Direct examination of Mr. Montoya.

9:48 a.m. Jury exits courtroom.

9:50 a.m. Court in recess.

10:02 a.m. Court in session.

Court: Addresses 5th Amendment privileges re: Mr. Montoya and Mr. Duran.

Ms. Duncan: Responds to Court's 5th Amendment privileges.

10:06 a.m. Jury enters courtroom.

Court: Reminds Mr. Montoya that he is still under oath.

Mr. Castellano: Continues direct examination of Mr. Montoya.

10:11 a.m. Mr. Castellano: Moves to admit Govt Exhibit 356.

Ms. Jacks: Stands by position already presented to the Court.

Ms. Fox-Young: Objection previously stated.

Court: Admits Govt Exhibit 356.

10:13 a.m. Mr. Montoya identifies Deft Baca.

10:45 a.m. Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Recording may only be used against Deft Baca, and may not be used against remaining 3 defendants.

10:46 a.m. Mr. Castellano: Moves to admit Govt Exhibit 380.

Defense: Objections previously stated.

Court: Admits Govt Exhibit 380.

11:25 a.m. Mr. Lowry: Objection, witness continually mentions Secretary of Corrections. Secretary of Corrections not mentioned on tape.

Court: Over-ruled.

11:30 a.m. Mr. Castellano: Moves to admit Govt Exhibit 334.

Defense: Objections previously stated.

Court: Admits Govt Exhibit 334.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Recording may only be used against Deft Baca, and may not be used against remaining 3 defendants.

Mr. Castellano: Requests the Court read jury instruction re: audio and transcripts.

Court: Reads jury instruction re: audio and transcripts.

11:32 a.m. Court in recess.

11:47 a.m. Court in session.

Mr. Castellano: Confirms Govt Exhibit 334, has been admitted.

Mr. Lowry: No objection. Wants to make a record that defense teams have not had the opportunity to review audios.

Court: Makes a copy of the 10 transcript clips for Mr. Lowry.

11:49 a.m. Jury enters courtroom.

Court: Reminds Mr. Montoya is still under oath.

Mr. Castellano: Continue direct examination of Mr. Montoya.

12:04 p.m. Mr. Lowry: Objection, speculation.

Court: Over-ruled.

Mr. Lowry: Objection, hearsay.

Court: Over-ruled.

Mr. Lowry: Objection, hearsay and speculation.

Court: Lead witness through testimony.

12:11 p.m. Mr. Lowry: Objection, non-responsive.

Court: Over-ruled.

12:28 p.m. Mr. Castellano: Moves to admit Govt Exhibit 394.

Defense: Objections previously stated.

Court: Admits Govt Exhibit 394.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Recording may only be used against Deft Baca, and may not be used against remaining 3 defendants.

12:39 p.m. Mr. Castellano: Moves to admit Govt Exhibit 396.

Defense: Objections previously stated.

Court: Admits Govt Exhibit 396.

1:07 p.m. Mr. Castellano: Moves to admit Govt Exhibits 759, 684 & 685.

Defense: Objections previously stated.

Court: Admits Govt Exhibits 759, 684 & 685.

1:15 p.m. Court: Limiting instruction - Armenta conversation may only be used against Deft Baca, and may not be used against remaining 3 defendants.

1:17 p.m. Court in recess.

2:18 p.m. Court in session.

Court: Inquires Govt and Mr. Lowry re: 304 and 305.

2:20 p.m. Jury enters courtroom.

Court: Reminds Mr. Montoya he is still under oath.

Mr. Castellano: Continues direct examination of Mr. Montoya.

2:24 p.m. Mr. Montoya identifies Deft Sanchez.

2:27 p.m. Mr. Castellano: Passes the witness.

Mr. Lowry: Cross examination of Mr. Montoya, on behalf of Deft Baca.

2:47 p.m. Mr. Castellano: Objection, relevance.

Court: Over-ruled.

2:47 p.m. Mr. Castellano: Objection, relevance and 5th Amendment Rights.

Court: Over-ruled. Witness has counsel present to invoke 5th Amendment Rights.

Mr. Candelaria: Invokes Mr. Montoya's 5th Amendment Right.

Court: Mr. Candelaria seated beside Mr. Montoya re: 5th Amendment Right.

Mr. Lowry: Continue cross examination of Mr. Montoya.

2:54 p.m. Mr. Montoya: On advice of his counsel, witness invokes his 5th Amendment Right.

3:11 p.m. Court: Calls and conducts bench conference.

3:14 p.m. Mr. Lowry: Continues cross examination of Mr. Montoya.

3:45 p.m. Mr. Lowry: Moves to admit Defendant Exhibit AJ1.

Govt & Defense: No objections.

Court: Admits Defendant Exhibit AJ1.

3:47 p.m. Court in recess.

3:58 p.m. Court in session.

Mr. Lowry: Addresses trial brief and Govt Exhibit 304.

4:02 p.m. Jury enters courtroom.

4:09 p.m. Mr. Lowry: Passes the witness.

Defense: No other defendant has cross examination of Mr. Montoya.

Mr. Castellano: Re-direct examination of Mr. Montoya.

4:16 p.m. Mr. Castellano: Passes the witness.

Mr. Lowry: Re-cross examination of Mr. Montoya.

4:18 p.m. Court: Mr. Montoya may step down from the witness stand. Witness is excused from the proceedings.

4:19 p.m. Ms. Armijo: Calls Eric Duran to testify.

Court: Calls and conducts bench conference.

4:24 p.m. Clerk: Swears in Eric Duran.

Ms. Armijo: Direct examination of Mr. Duran.

4:43 p.m. Mr. Duran identifies Deft Sanchez.

4:46 p.m. Mr. Duran identifies Deft Herrera.

4:47 p.m. Mr. Villa: Stipulates to the identity of Deft Perez, by Mr. Duran.

4:49 p.m. Ms. Jacks: Requests limiting instruction.

Court: Limiting instruction – Statement by Mr. Duran may only be used in consideration of guilt as to Deft Perez, and not as to the other 3 defendants.

4:50 p.m. Mr. Duran identifies Deft Baca.

5:19 p.m. Ms. Armijo: Moves to admit Govt Exhibit 368.

Court: Calls and conducts bench conference.

5:20 p.m. Court: Admits Govt Exhibit 368.

Ms. Armijo: Continues direct examination of Mr. Duran.

5:33 p.m. Court in recess.

WEDNESDAY, FEBRUARY 21, 2018

8:17 a.m. Court in session.

Court: Addresses Govt Exhibit 304 & 305. Over-ruling objection. Allow Govt to enter evidence.

8:20 a.m. Court: Admits Clerk's Exhibit P.

8:24 a.m. Mr. Villa: Requests to keep informed of the status of the Govt's case.

Mr. Beck: Informs Court the anticipated end date for the Govt's case to be Thursday or Friday, of next week.

8:28 a.m. Jury enters courtroom.

Court: Reminds Mr. Duran that he is still under oath.

Ms. Armijo: Continue direct examination of Mr. Duran.

8:39 a.m. Ms. Armijo: Moves to admit Govt Exhibit 322.

Defense: Request a bench conference.

Court: Calls and conducts bench conference.

8:42 a.m. Court: Admits Govt Exhibit 322.

8:44 a.m. Ms. Armijo: Moves to admit Govt Exhibit 294.

Ms. Duncan: Objection. Discussed yesterday.

8:46 a.m. Jury exits courtroom.

Court: Discusses audio tapes and transcripts with parties, outside the presence of the jury.

9:23 a.m. Jury enters courtroom.

Court: Reminds Mr. Duran that he is still under oath.

Ms. Armijo: Continues direct examination of Mr. Duran.

9:26 a.m. Ms. Armijo: Moves to admit Govt Exhibit 292.

Defense: No additional objections.

Court: Admits Govt Exhibit 292.

Ms. Jacks: Requests limiting instructions.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

9:37 a.m. Ms. Armijo: Moves to admit Govt Exhibit 376.

Court: Calls and conducts bench conference.

9:38 a.m. Court: Admits Govt Exhibit 376.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

9:43 a.m. Ms. Armijo: Moves to admit Govt Exhibit 362.

Court: Calls and conducts bench conference.

9:45 a.m. Court: Admits Govt Exhibit 362.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

9:50 a.m. Ms. Duncan: Request limiting instruction.

Court: Limiting Instruction – Statements made by Mr. Duran are admitted for the context of the conversation, but not for the truth of the conversation.

9:52 a.m. Ms. Armijo: Moves to admit Govt Exhibit 304.

Court: Admits Govt Exhibit 304.

9:59 a.m. Ms. Duncan: Objection, foundation.

Court: Lay some foundation.

10:00 a.m. Ms. Duncan: Objection, non-responsive.

Court: Over-ruled.

Ms. Duncan: Objection, Witness opinion.

Court: Over-ruled.

Ms. Duncan: Objection, hearsay.

Court: Over-ruled.

10:08 a.m. Ms. Armijo: Moves to admit Govt Exhibit 388.

Defense: No objection.

Court: Admits Govt Exhibit 388.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

10:11 a.m. Ms. Armijo: Moves to admit Govt Exhibit 310.

Defense: No objection.

Court: Admits Govt Exhibit 310.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

10:14 a.m. Ms. Armijo: Moves to admit Govt Exhibit 320.

Defense: No objection.

Court: Admits Govt Exhibit 320.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

10:17 a.m. Ms. Armijo: Moves to admit Govt Exhibit 390.

Court: Calls and conducts bench conference.

10:20 a.m. Court: Admits Govt Exhibit 390.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

10:25 a.m. Ms. Armijo: Moves to admit Govt Exhibit 296.

Defense: No objection.

Court: Admits Govt Exhibit 296.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

10:31 a.m. Ms. Armijo: Moves to admit Govt Exhibit 308.

Defense: No objection.

Court: Admits Govt Exhibit 308.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

10:39 a.m. Ms. Duncan: Request limiting instruction.

Court: Limiting Instruction – Statements made by Mr. Duran are admitted for the context of the conversation, but not for the truth of the conversation.

10:41 a.m. Ms. Armijo: Moves to admit Govt Exhibit 384.

Court: Calls and conducts bench conference.

10:44 a.m. Court: Admits Govt Exhibit 384.

10:46 a.m. Court in recess.

10:57 a.m. Court in session.

Ms. Duncan: Addresses objections to the court re: Govt Exhibit 330.

11:02 a.m. Jury enters courtroom.

Court: Reminds Mr. Duran that he is still under oath.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants, re: Govt Exhibit 384.

11:07 a.m. Ms. Armijo: Moves to admit Govt Exhibit 422.

11:07 a.m. Jury exits courtroom.

11:09 a.m. Court in recess.

11:13 a.m. Court in session.

Ms. Duncan: Requests only evidence presented in open court be provided to the jury.

Ms. Jacks: Agrees with request by Ms. Duncan.

11:24 a.m. Jury enters courtroom.

Court: Reminds Mr. Duran that he is still under oath.

Court: Admits Govt Exhibit 422.

11:26 a.m. Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

11:31 a.m. Ms. Armijo: Moves to admit Govt Exhibit 420.

11:33 a.m. Jury exits courtroom.

11:33 a.m. Court in recess.

11:53 a.m. Court in session.

Court: Addresses redactions in Govt Exhibit 420.

12:01 p.m. Jury enters courtroom.

Court: Reminds Mr. Duran that he is still under oath.

Court: Admits Govt Exhibit 420.

12:03 p.m. Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

12:07 p.m. Ms. Armijo: Moves to admit Govt Exhibit 416.

12:08 p.m. Court in recess.

1:10 p.m. Court in session.

Court: Addresses redaction of transcripts.

1:17 p.m. Jury enters courtroom.

Court: Reminds Mr. Duran that he is still under oath.

Court: Admits Govt Exhibit 416.

Ms. Jacks: Requests limiting instruction.

1:21 p.m. Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

1:23 p.m. Ms. Armijo: Moves to admit Govt Exhibit 328.

Defense: No objection.

Court: Admits Govt Exhibit 328.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

1:28 p.m. Ms. Armijo: Moves to admit Govt Exhibit 330.

Defense: No objection.

Court: Admits Govt Exhibit 330.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

1:31 p.m. Ms. Armijo: Moves to admit Govt Exhibit 344.

Defense: No objection.

Court: Admits Govt Exhibit 344.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

1:33 p.m. Ms. Armijo: Moves to admit Govt Exhibit 418.

Court: Calls and conducts bench conference.

1:37 p.m. Court: Admits Govt Exhibit 418.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

1:43 Ms. Duncan: Objection, answered and Ms. Armijo is testifying.

Court: Over-ruled.

1:44 p.m. Ms. Armijo: Moves to admit Govt Exhibit 348.

Court: Calls and conducts bench conference.

1:48 p.m. Court: Admits Govt Exhibit 348.

Court: Limiting Instruction – Conversations being played may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

2:09 p.m. Ms. Jacks: Objection, hearsay.

Court: Lay foundation.

2:11 p.m. Ms. Jacks: Objections, hearsay and compound.

Court: Over-ruled.

2:13 p.m. Ms. Jacks: Objections, non-responsive.

Court: Over-ruled.

2:15 p.m. Ms. Jacks: Objections, hearsay.

Court: Over-ruled.

2:15 p.m. Ms. Armijo: Passes the witness.

Ms. Duncan: Requests a recess prior to cross examination.

Court: Introduces Ken Del Valle, counsel for Mr. Duran, to the jury.

2:17 p.m. Court in recess.

2:28 p.m. Court in session.

Ms. Duncan: Informs the Court that she will be moving to admit Govt Exhibit 324.

2:31 p.m. Jury enters courtroom.

Court: Reminds Mr. Duran that he is still under oath.

Ms. Duncan: Cross examination of Mr. Duran, on behalf of Deft Baca.

2:41 p.m. Mr. Del Valle: Objects. Advises Mr. Duran to invoke his 5th Amendment Right.

Court: Inquires if Mr. Duran is taking his counsel's advice.

Mr. Duran: Agrees with his counsel. Invokes 5th Amendment Right.

Mr. Del Valle: Objects. Advises Mr. Duran to invoke his 5th Amendment Right.

Court: Inquires if Mr. Duran is taking his counsel's advice.

Mr. Duran: Agrees with his counsel. Invokes 5th Amendment Right.

2:43 p.m. Mr. Del Valle: Objects. Advises Mr. Duran to invoke his 5th Amendment Right.

Court: Inquires if Mr. Duran is taking his counsel's advice.

Mr. Duran: Agrees with his counsel. Invokes 5th Amendment Right.

2:48 p.m. Ms. Duncan: Moves to admit Defendant Exhibits AE1 – AE5.

Govt & Defense: No objections.

Court: Admits Defendant Exhibits AE1 – AE5.

2:53 p.m. Ms. Duncan: Moves to admit Govt Exhibit 324. Only admitting the portion played.

Ms. Armijo: Object. Request entire Govt Exhibit 324 be admitted.

Ms. Duncan: Defense will move to admit the exhibit as defense exhibit.

2:54 p.m. Ms. Duncan: Moves to admit Defendant Exhibits FR.

Govt & Defense: No objections.

Court: Admits Defendant Exhibits FR.

2:56 p.m. Ms. Duncan: Marks Defendant Exhibit ED1.

3:03 p.m. Ms. Duncan: Marks Defendant Exhibit ED6.

3:08 p.m. Ms. Duncan: Marks Defendant Exhibit ED3.

3:09 p.m. Ms. Duncan: Marks Defendant Exhibit ED4.

3:13 p.m. Ms. Armijo: Requests to approach.

Court: Calls and conducts bench conference.

3:14 p.m. Ms. Duncan: Continues cross examination of Mr. Duran.

3:17 p.m. Ms. Duncan: Marks Defendant Exhibit Z40.

3:18 p.m. Ms. Duncan: Marks Defendant Exhibit Z33.

3:20 p.m. Ms. Armijo: Objection, 609.

Court: Will not allow theft of gun. Will allow forgery.

3:21 p.m. Mr. Del Valle: Objects. Advises Mr. Duran to invoke his 5th Amendment Right.

Court: Inquires if Mr. Duran is taking his counsel's advice.

Mr. Duran: Agrees with his counsel. Invokes 5th Amendment Right.

3:27 p.m. Ms. Duncan: Marks Defendant Exhibit FS.

3:33 p.m. Jury exits courtroom.

3:24 p.m. Ms. Armijo: Requests telephone calls used for impeachment be made outside the presence of the jury.

3:36 p.m. Court in recess.

3:45 p.m. Court in session.

Ms. Armijo: Addresses the portion of the transcript that will be used to impeach.

Court: Reminds Mr. Duran that he is still under oath.

3:49 p.m. Jury enters courtroom.

Court: Reminds Mr. Duran that he is still under oath.

Ms. Duncan: Continues cross examination of Mr. Duran.

3:57 p.m. Ms. Duncan: Moves to admit Defendant Exhibits V4 & V9.

Ms. Armijo: Objects to the admission of V4, not complete.

Court: Admits Defendant Exhibits V4 & V9. Defendant Exhibit V4 will be substituted with complete document.

4:06 p.m. Ms Duncan: Marks Defendant Exhibit Z36.

Ms. Armijo: Requests the audio recording be played outside the presence of the jury.

4:07 p.m. Jury exits courtroom.

Ms. Duncan: Unable to play Defendant Exhibit Z36.

4:12 p.m. Jury enters courtroom.

4:14 p.m. Ms. Duncan: Passes the witness.

Ms. Bhalla: Cross examination of Mr. Duran, on behalf of Deft Herrera.

4:16 p.m. Ms. Armijo: Objection, foundation.

Court: Over-ruled.

4:17 p.m. Ms. Armijo: Objection, foundation.

Court: Limiting Instruction – Statements made by Mr. Duran are admitted for the context of the conversation, but not for the truth of the conversation.

4:18 p.m. Ms. Bhalla: Passes the witness.

Mr. Villa: Cross examination of Mr. Duran, on behalf of Deft Perez.

4:20 p.m. Ms. Armijo: Objection, argumentative.

Court: Instructs counsel to not argue the evidence.

4:25 p.m. Ms. Armijo: Objection.

Court: Sustained.

4:25 p.m. Court: Calls and conducts bench conference.

4:28 p.m. Mr. Villa: Continue cross examination of Mr. Duran.

4:33 p.m. Mr. Villa: Passes the witness.

Ms. Jacks: Cross examination of Mr. Duran, on behalf of Deft Sanchez.

4:43 p.m. Ms. Jacks: Offers stipulation - Incident between Daniel Sanchez and Daniel Munzo occurred on 11/14/2005.

Govt & Defense: No objection.

Court: Accepts stipulation - Incident between Daniel Sanchez and Daniel Munzo occurred on 11/14/2005.

4:47 p.m. Ms. Jacks: Passes the witness.

Ms. Armijo: Re-direct examination of Mr. Duran.

4:53 p.m. Ms. Duncan: Objection, hearsay.

Court: Establish testimony is coming from Mr. Baca.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

4:55 p.m. Mr. Villa: Objection.

Ms. Armijo: Re-phrasing question.

Mr. Villa: Objection, outside the scope of cross examination.

Court: Over-ruled.

4:56 p.m. Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Baca, and may not be used as to the remaining 3 defendants.

4:58 p.m. Ms. Armijo: No further questions.

Ms. Duncan: Requests to approach.

Court: Calls and conducts bench conference.

5:11 p.m. Ms. Duncan: Re-cross examination of Mr. Duran.

5:12 p.m. Ms. Duncan: No further questions.

Mr. Villa: Re-cross examination of Mr. Duran.

5:16 p.m. Mr. Villa: No further questions.

5:17 p.m. Court in recess.

THURSDAY, FEBRUARY 22, 2018

8:21 a.m. Court in session.

Mr. Jewkes: Informs the court of a death in his family. Requests permission to attend the services on Friday, 02/23/2018.

Ms. Duncan: Informs the court of 2 items she failed to inquire of Mr. Duran.

Court: Informs parties that Juror #4 is feeling ill and will be going to a Prompt Care Facility.

Mr. Villa: Requests a time frame as to when the Govt plans on resting their case.

Ms. Armijo: Anticipates conclusion of Govt case late today, or tomorrow (02/23/2018). Requests names of witnesses from defense counsel.

8:29 a.m. Jury enters courtroom.

8:32 a.m. Court: Reminds Mr. Duran that he is still under oath.

Ms. Bhalla: Re-cross examination of Mr. Duran.

8:33 a.m. Ms. Duncan: Re-cross examination of Mr. Duran.

8:36 a.m. Ms. Armijo: Re-direct examination of Mr. Duran.

8:38 a.m. Court: Mr. Duran may step down from the witness stand. Witness is subject to recall. Witness is admonished from discussing his testimony or the case with anyone.

8:39 a.m. Mr. Castellano: Calls Billy Cordova to testify.

8:41 a.m. Clerk: Swears in Billy Cordova.

Mr. Castellano: Direct examination of Mr. Cordova.

8:44 a.m. Mr. Castellano: Moves to admit Govt Exhibit 242.

Defense: No objection.

Court: Admits Govt Exhibit 242.

9:13 a.m. Mr. Cordova identifies Deft Sanchez.

9:19 a.m. Ms. Jacks: Objection. Narrative.

Mr. Castellano: Will break testimony up with question and answers.

9:21 a.m. Ms. Jacks: Objection. Calls for conclusion based on hearsay.

Court: Lay some foundation.

9:23 a.m. Ms. Bhalla: Stipulates to the identification of Deft Herrera.

Mr. Cordova identifies Deft Herrera.

Mr. Villa: Objection, hearsay.

Court: Lay some foundation.

9:41 a.m. Ms. Jacks: Objection. Narrative.

Court: Break up testimony with more questions and answers.

9:47 a.m. Court in recess.

9:59 a.m. Court in session.

Court: Informs parties to have witnesses ready to testify. USMS has limited manpower available. Difficult for USMS to transport witnesses for attorneys to speak with re: trial prep.

Ms. Bhalla: Objection to Govt Exhibit 195.

Court: Instructs Ms. Bhalla to provide the Court with a copy of the transcript she is objecting to.

10:03 a.m. Jury enters courtroom.

Court: Reminds Mr. Cordova that he is still under oath.

Mr. Castellano: Continues direct examination of Mr. Cordova.

Mr. Castellano: Moves to admit Govt Exhibits 768, 769, 770.

Defense: No objections.

Court: Admits Govt Exhibits 768, 769, 770.

10:09 a.m. Mr. Castellano: Moves to admit Govt Exhibit 176.

Defense: No objections.

Court: Admits Govt Exhibit 176.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Perez, and may not be used as to the remaining 3 defendants.

10:29 a.m. Ms. Jacks: Objection. Narrative.

Court: Ask more question and answers.

10:35 a.m. Mr. Castellano: Moves to admit Govt Exhibit 178.

Defense: No objections.

Court: Admits Govt Exhibit 178.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Perez, and may not be used as to the remaining 3 defendants.

10:43 a.m. Mr. Villa: Objection. Speculation.

Court: Lay foundation.

10:43 a.m. Mr. Villa: Objection. Speculation.

Court: Ask witness what he knows.

11:05 a.m. Ms. Duncan: Objection. Calls for hearsay.

Court: Have witness give his understanding without stating what other people said.

11:08 a.m. Ms. Duncan: Objection. Narrative.

Court: Break up testimony in question and answer.

11:16 a.m. Mr. Castellano: Moves to admit Govt Exhibit 180.

Defense: No objections.

Court: Admits Govt Exhibit 180.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Perez, and may not be used as to the remaining 3 defendants.

11:26 a.m. Ms. Duncan: Objection. Hearsay.

Court: Sustained.

11:32 Court in recess.

11:47 Court in session.

Court: Reminds Mr. Cordova that he is still under oath.

Mr. Castellano: Continue direct examination of Mr. Cordova.

11:51 a.m. Mr. Castellano: Moves to admit Govt Exhibit 182.

Defense: No objections.

Court: Admits Govt Exhibit 182.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Perez, and may not be used as to the remaining 3 defendants.

11:59 a.m. Mr. Castellano: Moves to admit Govt Exhibit 184.

Defense: No objections.

Court: Admits Govt Exhibit 184.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Perez, and may not be used as to the remaining 3 defendants.

12:14 p.m. Mr. Villa: Objection. Speculation.

Court: Lay some foundation. Limit it to the understanding of the witness.

12:15 p.m. Mr. Villa: Objection. Speculation.

Court: Over-ruled.

12:22 p.m. Ms. Duncan: Objection. Non-responsive.

Court: Over-ruled.

12:51 p.m. Ms. Jacks: Objection. Narrative.

Court: Break up testimony in question and answer.

12:55 p.m. Mr. Castellano: Moves to admit Govt Exhibit 186.

Defense: No objections.

Court: Admits Govt Exhibit 186.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Perez, and may not be used as to the remaining 3 defendants.

1:00 p.m. Mr. Castellano: Moves to admit Govt Exhibit 188.

Defense: No objections.

Court: Admits Govt Exhibit 188.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Perez, and may not be used as to the remaining 3 defendants.

1:02 p.m. Ms. Duncan: Requests to approach.

Court: Calls and conducts bench conference.

1:03 p.m. Mr. Castellano: Continues direct examination of Mr. Cordova.

1:12 p.m. Ms. Jacks: Objection. Narrative.

Court: Break up testimony in question and answer.

1:17 p.m. Court in recess.

2:22 p.m. Court in session.

Court: Juror #4, will wait until after court to go to the doctor.

2:23 p.m. Jury enters courtroom.

Court: Reminds Mr. Cordova that he is still under oath.

Mr. Castellano: Continues direct examination of Mr. Cordova.

2:41 p.m. Mr. Castellano: Moves to admit Govt Exhibit 198.

Defense: No objections.

Court: Admits Govt Exhibit 198.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Herrera, and may not be used as to the remaining 3 defendants.

2:43 p.m. Mr. Castellano: Moves to admit Govt Exhibit 196.

Defense: No objections.

Court: Admits Govt Exhibit 196.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Herrera, and may not be used as to the remaining 3 defendants.

2:45 p.m. Ms. Bhalla: Objection. Editorial.

Court: Over-rule general objection. Break up testimony in question and answer.

2:54 p.m. Ms. Bhalla: Objection. Requests to approach.

Court: Calls and conducts bench conference.

2:55 p.m. Mr. Castellano: Continues direct examination of Mr. Cordova.

3:17 p.m. Mr. Castellano: Moves to admit Govt Exhibit 204.

Defense: No objections.

Court: Admits Govt Exhibit 204.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Herrera, and may not be used as to the remaining 3 defendants.

3:22 p.m. Ms. Bhalla: Objection. Narrative.

Court: Over-ruled.

3:28 p.m. Ms. Bhalla: Objection.

Court: Over-ruled.

3:29 p.m. Mr. Castellano: Moves to admit Govt Exhibit 202.

Defense: No objections.

Court: Admits Govt Exhibit 202.

Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Herrera, and may not be used as to the remaining 3 defendants.

3:34 p.m. Mr. Castellano: Moves to admit Govt Exhibit 192.

Ms. Bhalla: Requests to approach.

Court: Calls and conducts bench conference.

3:44 p.m. Court: Admits Govt Exhibit 192.

Ms. Jacks: Objection has been noted. Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Herrera, and may not be used as to the remaining 3 defendants.

3:47 p.m. Court in recess.

4:01 p.m. Court in session.

Mr. Beck: Addresses the conduct of Deft Perez.

Court: Inquires of Ms. Duncan re: Eric Duran Portland case and 5th Amendment Rights.

Mr. Beck: Responds to Court's inquiry.

4:05 p.m. Jury enters courtroom.

Court: Reminds Mr. Cordova that he is still under oath.

Mr. Castellano: Continue direct examination of Mr. Cordova.

4:16 p.m. Ms. Bhalla: Objection. Speculation.

Court: Over-ruled.

4:25 p.m. Ms. Bhalla: Objection. Witness answered the question.

Court: Over-ruled.

5:04 p.m. Mr. Castellano: Moves to admit Govt Exhibit 194.

Ms. Bhalla: Same objection.

Ms. Jacks: Objection already noted. Requests limiting instruction.

Court: Admits Govt Exhibit 194.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Herrera, and may not be used as to the remaining 3 defendants.

5:32 p.m. Jury exits courtroom.

Court: Addresses Ms. Duncan's request re: Duran and 5th Amendment Rights. Permit defense to call a single witness.

5:35 p.m. Mr. Jewkes: Addresses issue of Eric Duran on money laundering.

Ms. Armijo: Responds to Mr. Jewkes comments.

5:36 p.m. Court in recess.

FRIDAY, FEBRUARY 23, 2018

8:28 a.m. Court in session.

Court: Addresses the issue of jury instructions. Not inclined to allow 3 witnesses re: Eric Duran. Will allow 1 witness.

Mr. Jewkes: Requests the Court announce location of Mr. Jewkes this afternoon.

Ms. Armijo: Has another court matter that she needs to take care of this morning.

Mr. Jewkes: Request disclosure on money laundering re: Eric Duran.

Ms. Armijo: Responds to Mr. Jewkes inquiry.

Ms. Jacks: Addresses to money laundering re: Eric Duran.

Court: Inquires if SA Acee can testify and clean up money laundering re: Eric Duran.

Ms. Armijo: Unsure if SA Acee would be able to testify to this matter.

8:37 a.m. Mr. Beck: Defense witness list re: Rule 16. Request witnesses be excluded from testifying.

Mr. Villa: Responds to Govt's comments.

Court: Not inclined to exclude. Instructs defense to contact witnesses, obtain discovery and turn over to Govt.

Mr. Beck: Defense subpoenaed number of witnesses, request list of witnesses to testify.

Court: Instructs defense to provide a list of witnesses to the Govt by the COB each day. Requests from defense if a witness is not going to be called, inform the witness to not attend as soon as possible.

Mr. Villa: Responds to Govt re: order witnesses are being called.

Court: Requests all parties work together re: calling of witnesses.

Mr. Beck: Responds to Mr. Villa's comments re: unknown what witnesses will state until on the stand. Wife of Timothy Martinez is a witness for the defense. She has requested an attorney prior to testimony.

Court: Inquires if defense counsel concurs.

Mr. Villa: Requested to speak with Ms. Martinez. She requested a lawyer prior to speaking with defense. Agrees that an attorney should be appointed.

Court: Speaking with Ms. Wild.

9:00 a.m. Jury enters courtroom.

Court: Reminds Mr. Cordova that he is still under oath.

Mr. Castellano: Continues direct examination of Mr. Cordova.

9:05 a.m. Ms. Bhalla: Objection. Non-responsive.

Court: Over-ruled.

9:06 a.m. Mr. Duncan & Ms. Jacks: Requests limiting instruction.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Herrera, and may not be used as to the remaining 3 defendants.

9:07 a.m. Ms. Bhalla: Objection. Witnesses interpretation of statements.

Court: Over-ruled.

9:26 a.m. Ms. Duncan & Ms. Jacks: Objection. Hearsay.

Court: Sustained. Strikes statement from the record.

Ms. Jacks: Objection. Relevance.

Court: Over-ruled.

9:27 a.m. Ms. Jacks: Objection. Relevance.

Mr. Castellano:

9:28 a.m. Court: Calls and conducts bench conference.

9:32 a.m. Mr. Castellano: Continues direct examination of Mr. Cordova.

Ms. Jacks: Objection. Non-responsive.

Court: Over-ruled.

9:33 a.m. Mr. Castellano: Passes the witness.

Mr. Villa: Cross examination of Mr. Cordova, on behalf of Deft Perez.

9:50 a.m. Mr. Castellano: Objection. Hearsay.

Court: Instructs jury they may only consider the statement for the fact there were rumors.

Mr. Villa: Continues cross examination of Mr. Cordova.

10:03 a.m. Court in recess.

10:15 a.m. Court in session.

Mr. Villa: Requests to approach.

Court: Calls and conducts bench conference.

10:18 a.m. Jury enters courtroom.

Court: Reminds Mr. Cordova that he is still under oath.

Mr. Villa: Continues cross examination of Mr. Cordova.

10:20 a.m. Mr. Castellano: Objection. Lack of foundation.

Court: Lay some foundation.

Mr. Castellano: Objection. Relevance.

Court: Over-ruled.

10:28 a.m. Mr. Villa: Moves to admit Defendant Exhibit Q.

Govt & Defense: No objections.

Court: Admits Defendant Exhibit Q.

10:44 a.m. Mr. Castellano: Objection. Calls for speculation.

Court: Lay some foundation.

11:42 a.m. Mr. Villa: Moves to admit Defendant Exhibit AD2.

Govt: No other objection than previously stated.

Defense: No objections.

Court: Admits Defendant Exhibit AD2.

11:48 a.m. Court in recess.

11:59 a.m. Court in session.

12:04 p.m. Jury enters courtroom.

Court: Reminds Mr. Cordova that he is still under oath.

Mr. Villa: Continues cross examination of Mr. Cordova.

12:13 p.m. Mr. Villa: Passes the witness.

Court: Announces Mr. Jewkes attending funeral services this afternoon.

Ms. Bhalla: Cross examination of Mr. Cordova, on behalf of Deft Herrera.

12:16 p.m. Jury exits courtroom.

12:18 p.m. Jury enters courtroom.

Ms. Bhalla: Continues cross examination of Mr. Cordova.

12:43 p.m. Ms. Bhalla: Passes the witness.

Ms. Jacks: Cross examination of Mr. Cordova, on behalf of Deft Sanchez.

12:55 p.m. Ms. Jacks: Requests the court instruct the witness to answer questions being asked.

Court: Instructs witness to answer questions being asked.

12:59 p.m. Mr. Castellano: Objection. Not subject of hearing.

Court: Over-ruled.

1:05 p.m. Mr. Castellano: Objection. Witness is trying to answer the question.

Court: Over-ruled.

1:11 p.m. Mr. Castellano: Objection. Asked and answered.

Court: Over-ruled.

1:15 p.m. Ms. Jacks: Passes the witness.

Mr. Castellano: Re-direct examination of Mr. Cordova.

1:19 p.m. Mr. Villa: Objection. Speculation.

Court: Witness may give his understanding.

1:20 p.m. Ms. Jacks: Requests limiting instructions.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Perez, and may not be used as to the remaining 3 defendants.

1:22 p.m. Ms. Jacks: Objection. Question not asked.

Court: Ask and answer questions.

Mr. Villa: Objection. Commenting on the evidence.

Court: Instructs counsel to not comment on evidence.

1:26 p.m. Mr. Villa: Objection.

Ms. Jacks: Request limiting instruction.

Mr. Castellano: Will re-phrase the question.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Perez, and may not be used as to the remaining 3 defendants.

1:30 p.m. Ms. Duncan: Objection. Characterization.

Court: Over-ruled.

1:32 p.m. Court in recess.

2:26 p.m. Court in session.

Ms. Armijo: Govt plans on calling two witnesses following Mr. Cordova. Request defense to disclose any Jenks or reports used by expert witnesses be disclosed.

Defense: Agree with Govt's request.

2:34 p.m. Jury enters courtroom.

Court: Reminds Mr. Cordova that he is still under oath.

Mr. Castellano: Re-direct examination of Mr. Cordova.

2:49 p.m. Ms. Jacks: Objection. Beyond the scope of cross examination.

Court: Over-ruled.

2:52 p.m. Ms. Jacks: Requests limiting instructions.

Court: Limiting Instruction – Statement may only be used in consideration of guilt as to Deft Perez, and may not be used as to the remaining 3 defendants.

2:53 p.m. Ms. Duncan: Objection. Beyond the scope of cross examination.

Court: Over-ruled.

2:57 p.m. Ms. Duncan: Request to approach.

Court: Calls and conducts bench conference.

2:58 p.m. Mr. Castellano: Continues re-direct examination of Mr. Cordova.

3:03 p.m. Mr. Castellano: Pass the witness.

Mr. Villa: Re-cross examination of Mr. Cordova.

3:10 p.m. Mr. Villa: Passes the witness.

Defense: No further questions.

Mr. Castellano: No further questions.

Court: Mr. Cordova may step down from the witness stand. Witness is excused from the proceedings.

3:11 p.m. Mr. Beck: Calls Dwayne Santestevan to testify.

Clerk: Swears in Dwayne Santestevan.

Mr. Beck: Direct examination of Mr. Santestevan.

3:17 p.m. Mr. Lowry: Requests to approach.

Court: Calls and conducts bench conference.

3:20 p.m. Mr. Beck: Continues direct of Mr. Santestevan.

3:23 p.m. Mr. Lowry: Objection.

Court: Lead witness through the questions.

3:30 p.m. Mr. Lowry: Objection. Relevance.

Court: Over-ruled.

3:32 p.m. Mr. Lowry: Objection.

Court: Witness may explain what it means to him.

3:33 p.m. Mr. Santestevan identifies Deft. Baca.

3:34 p.m. Mr. Beck: Passes the witness.

Mr. Lowry: Cross examination of Mr. Santestevan, on behalf of Deft Baca.

3:36 p.m. Mr. Lowry: Passes the witness.

Defense: No questions.

Mr. Beck: No further questions.

Court: Mr. Santestevan may step down from the witness stand. Witness is excused from the proceedings.

Mr. Castellano: Recalls Special Agent Acee to testify.

Court: Reminds SA Acee that he is still under oath.

Mr. Castellano: Direct examination of SA Acee.

3:41 p.m. Mr. Lowry: Objection. Hearsay.

Court: Over-ruled. Yes / No answer.

3:44 p.m. Mr. Maynard: Objection. Opinion/speculation.

Court: Sustained.

3:46 p.m. Mr. Lowry: Objection. Hearsay.

Court: Sustained.

3:47 p.m. Mr. Lowry: Objection. Hearsay.

Court: Sustained.

4:01 p.m. Mr. Castellano: Moves to admit Govt Exhibit 777.

Mr. Lowry: Objection.

Court: Admits Govt Exhibit 777, as conditional. Defense has the weekend to review document and make further objections.

4:02 p.m. Court in recess.

4:14 p.m. Court in session.

Court: Reads question from Juror #14 re: transcripts for jury deliberation.

Mr. Lowry: Objects to transcripts going back with the jury.

Ms. Jacks: Recommends nothing be done until case is concluded and a cautionary jury instruction can be given.

Court: Juror #14's note will identified as Clerk's Exhibit T. Admits Clerk's Exhibit R, and Clerk's Exhibit S.

4:18 p.m. Jury enters courtroom.

Court: Reminds SA Acee that he is still under oath.

Mr. Castellano: Continues direct examination of SA Acee.

4:27 p.m. Ms. Jacks: Objection. Hearsay and relevance.

Court: Lay a foundation.

4:31 p.m. Mr. Castellano: Moves to admit Defendant Exhibit FC.

Ms. Jacks: Objects.

Court: Denies admission of Defendant Exhibit FC.

4:34 p.m. Mr. Castellano: Passes the witness.

Mr. Lowry: Requests to approach.

Court: Calls and conducts bench conference.

4:38 p.m. Defense: Reserves cross examination of SA Acee.

Court: SA Acee may step down from the witness stand. Witness is subject to recall.

Mr. Castellano: Govt rests.

4:39 p.m. Court: Admonishes jury to not discuss this case with anyone, listen to news reports or read about the case.

4:41 p.m. Jury exits courtroom.

Mr. Lowry: Addresses Rule 29 and moves for dismissal of Count 8.

4:44 p.m. Mr. Castellano: Responds to Mr. Lowry argument.

5:02 p.m. Jury enters courtroom.

Ms. Jacks: Calls Christian Filipiak to testify.

Clerk: Swears in Christian Filipiak.

Ms. Jacks: Direct examination of Mr. Filipiak

5:19 p.m. Ms. Jacks: Passes the witness.

Defense: No direct examination.

Ms. Armijo: Cross examination of Mr. Filipiak.

5:22 p.m. Ms. Jacks: Opinion that witness is probably not qualified to make.

Court: If the witness knows he may state.

5:29 p.m. Ms. Jacks: Witness can be given a copy of the report.

Court: Govt may cross examination and defense may re-direct the witness.

5:31 p.m. Ms. Armijo: Passes the witness.

Ms. Jacks: Re-direct of Mr. Filipiak.

Ms. Jacks: No further questions.

Court: Mr. Filipiak may step down from the witness stand. Mr. Filipiak is excused from the proceedings.

5:33 p.m. Court in recess.